

Appl. No. : 10/664,637 Confirmation No.: 5053
Applicants : Morris G. Haney & Roy Thein
Filed : 9/19/2003
Title : Submersible Pump Drop Pipe and Casing Assembly Connection and
Method of Manufacture
Assignee : Modern Products
TC/A.U. : 3679
Examiner : David Bochna
Docket No. : P-7627(DIV)

**AFFIDAVIT OF JOHN CAVE
REGARDING EXHIBITS IN RESPONSE TO 6-1-2005 OFFICE ACTION**

I, John C. Cave, being duly sworn states the following:

1. I am over the age of twenty-one, and I am competent to make this affidavit, and I have personal knowledge of the facts stated herein.
2. I am one of the attorneys representing Modern Products Industries, Inc., Defendant in the above-identified patent application.
3. A true and correct copy of Chapter 6, entitled "Drilling and Well Construction" from the *Geothermal Direct-Use Engineering and Design Guidebook*, as downloaded from <http://geoheat.oit.edu/pdf/tp65.pdf>, is attached as Exhibit 1 to this affidavit.
4. A true and correct copy of excerpts from the "ebook" form of Thomas Sixsmith & Reinhard Handelka's *Handbook of Thermoplastic Piping System Design*, as retrieved through an online portal for the San Antonio Public Library system, is attached as Exhibit 2 to this affidavit.
5. A true and correct copy of excerpts from the 1996, 25th edition of *Machinery's Handbook* is attached as Exhibit 3 to this affidavit.
6. Attached as Exhibit 4 to this affidavit is a true and correct copy of a "Fact Sheet" from the "Ohio Department of Natural Resources Division of Water," downloaded and printed from <http://dnr.ohio.gov/water/pubs/pdfs/fctsht46.pdf>.

7. A true and correct copy of pages from the December 29, 2003 issue of *Plastics News* is attached as Exhibit 5 to this affidavit.

8. Attached as Exhibit 6 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" ranging from November 11 to 14 of 2001, which was produced by CertainTeed as Bates No. CT 00058.

9. Attached as Exhibit 7 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" ranging from December 4 to 5 of 2001, which was produced by CertainTeed as Bates No. CT 00059.

10. Attached as Exhibit 8 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" of February 19, 2002, which was produced by CertainTeed as Bates No. CT 00061.

11. Attached as Exhibit 9 to this affidavit is a true and correct, partially redacted copy of an internal memorandum between corporate employees of CertainTeed, with a reported "revision date" of April 30, 2002, which was produced by CertainTeed as Bates No. CT 00123.

12. Attached as Exhibit 10 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" of May 9 and 10, 2002, which was produced by CertainTeed as Bates No. CT 00127.

13. Attached as Exhibit 11 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" of June 18, 2002, which was produced by CertainTeed as Bates No. CT 00135.

14. Attached as Exhibit 12 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" of June 27, 2002, which was produced by CertainTeed as Bates Nos. CT 00152-153.

15. Attached as Exhibit 13 to this affidavit is a true and correct, partially redacted copy of an internal e-mail chain between corporate employees of CertainTeed, with reported "sent dates" of October 15-21, 2002, which was produced by CertainTeed as Bates Nos. CT 00173-176.

16. Attached as Exhibit 14 to this affidavit are true and correct, partially redacted copies of internal CertainTeed documents reporting the results of tests comparing the strengths of Modern Products' Shur-Align pipe with CertainTeed's Kwik-Set pipe, which were produced by CertainTeed as Bates Nos. CT 00214, 215, 220, 223, and 226.

17. Attached as Exhibit 15 to this affidavit is a true and correct copy of the cover and one page of November 2003 issue of the *Water Well Journal*.

18. Attached as Exhibit 16 to this affidavit is a true and correct copy of CertainTeed's 2004 Kwik-Set brochure, downloaded from CertainTeed's website.

19. Attached as Exhibit 17 to this affidavit is a true and correct copy of a miniaturized version of the transcript of the May 12, 2004, deposition of CertainTeed witness John Stott.

20. Attached as Exhibit 18 to this affidavit is a true and correct copy of a miniaturized version of the transcript of the Nov. 18, 2004, deposition of Northern Products witness Victor Weigel.

21. Attached as Exhibit 19 to this affidavit is a true and correct copy of a letter written by Modern Products' counsel to PW Eagle, Inc.

22. Attached as Exhibit 20 to this affidavit is a true and correct copy of a letter written by Modern Products' counsel to Pipelife Jet Stream, Inc.

23. Attached as Exhibit 21 to this affidavit is a true and correct copy of a *Modern Products* advertisement that appeared in issues of the *Water Well Journal* and *National Driller*.

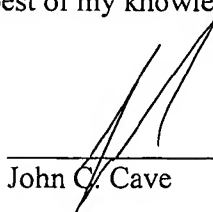
24. Attached as Exhibit 22 to this affidavit is a true and correct copy of excerpts from the Oct. 26, 2004 Deposition of Morris Haney.

25. Attached as Exhibit 23 to this affidavit is a true and correct copy of excerpts from the Oct. 25, 2004 Deposition of Roy Thein.

26. The drawing and dimensions depicted on page 15 of the Response to the Office Action are based on observations and measurements of an actual sample of a Kwik-Set pipe and accurately depicts the design of CertainTeed's first version of the Kwik-Set pipe.

27. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Further, Affiant sayeth not:



John C. Cave

STATE OF TEXAS §
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COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared JOHN C. CAVE, known to me to be the person of that name, who signed the foregoing instrument, and acknowledged the same to be his free act and deed.

GIVEN under my hand and seal of office this 1st day of December, 2005.

Melissa Linton
Notary Public



Melissa Linton
Printed Name of Notary

Commission Expires 3-9-08